

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicants have amended claims 1 and 17. Accordingly, claims 1-2 and 17-27 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 17, 18, 20 and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over Noneman in view of Hunt. The Applicants have amended independent claims 1 and 17 to better distinguish the claimed invention from Noneman and Hunt. In particular, Applicant has amended independent claims 1 and 17 to provide, inter alia, that the physical layer which performs certain claimed actions, such as transmitting packets, is *different* from the lower layer which performs other claimed actions, such as detecting the start of the transmission. This amendment is supported at page 10, lines 7-23 of the application.

Referring now to Noneman and Hunt, neither Noneman nor Hunt disclose, discuss, describe nor suggest using a physical layer to transmit packets that is *different* from the lower layer which detects the start of transmitting packets. With respect to claims 1 and 17, Examiner cites col. 1, lines 37-38 of Noneman (frames are sent by the physical layer) as being analogous to detecting the start of a transmission by the lower protocol layer. However, in claims 1 and 17, the analogy does not hold as the lower layer is not the same as the physical layer.

Hunt also does not disclose the functionality of the layered protocols used in the present invention. Hunt does disclose a packet communication system employing a carrier sense multiple access protocol with collision detection, which is conventionally known in the art. Yet it does not disclose nor suggest using a physical layer to transmit data that is *different* from the lower layer, wherein the lower layer is adapted to detect the start of a transmission.

The Examiner's consideration of the amended claims is respectfully requested.

Claims 20 and 26-27 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Claim 18 depends from amended claim 17 and recites further limitations in combination with the novel elements of claim 17. Therefore, the allowance of claims 1, 17, 18, 20 and 26-27 is respectfully requested.

The Examiner rejected claims 2, 19 and 21-25 under 35 U.S.C. § 103(a) as being unpatentable over Noneman in view of Hunt in further view of Pasternak. The Applicants have amended the independent claims 1 and 17 on which claims 2, 21-25 and 19 respectively depend, to better distinguish the claimed invention from Noneman, Hunt and Pasternak. As noted above, neither Noneman nor Hunt discuss, describe nor suggest the functionality of the communication protocols used in the present invention. Nor does Pasternak disclose nor suggest such functionality. Pasternak discloses a point-to-multipoint microwave ATM network. ATM cell transmissions in the upstream direction are granted on a cell by cell basis. If two upstream cells coincide, one is shifted slightly in time, causing small cell delay variation (CDV). The downstream transmission consists of ATM cells encapsulated in MAC protocol data units (PDUs) and other overhead bits used for forward error correction (FEC) and synchronization. Small Subscriber Terminals (STs), including Subscriber Radio Units (SRUs), receive that broadcast and pass it to a Subscriber Access System (SAS) that drops the ATM cells addressed only to them. Each MAC PDU transmitted by the BS may include a grant for a specific ST. The grant specifies which ST is allowed to transmit but not which time slot.

The upstream transmission includes single ATM cells with their MAC and physical layer overhead. A modified trellis code modulation technique is used in the upstream transmission. The ATM traffic gathered from the STs is shaped by a cell jitter attenuator to reduce cell delay variation (CDV) occurring over the link. The Base Sector Controller (BSC) includes the master MAC controller and application-specific processing circuits and software (see Pasternak, col 2, lines 7-67 and col 3, lines 1-22, col. 8, lines 7-67, col 9, lines 1-58, col 10, lines 1-58, col. 11, lines 23-67, col. 12, lines 23-38 and Figure 10).

Pasternak does not disclose, teach or suggest the step of detecting the start of a transmission by a lower layer, which is not the physical layer, as set forth in amended claims 1 and 17. The combination of Noneman, Hunt and Pasternak does not disclose, teach or suggest detecting the start of a transmission by a lower layer, which is not a physical layer. The Examiner's consideration of the amended claims is respectfully requested.

Claims 2 and 21-25 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Claim 19 depends from amended claim 17 and recites further limitations in combination with the novel elements of claim 17. Therefore, the allowance of claims 2, 19 and 21-25 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-2 and 17-27.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

/Michael Cameron, #50,298/

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Michael Cameron
Registration No. 50,298

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-4145
michael.cameron@ericsson.com